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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,404	11/28/2003	Zo-Chun Jen	L9079.03111	7173

7590 07/12/2005

STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
Suite 850
1615 L Street, N.W.
Washington, DC 20036

EXAMINER

EINSMANN, MARGARET V

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/722,404

Applicant(s)

JEN, ZO-CHUN

Examiner

Margaret Einsmann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/28/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Applicant's election with traverse of the Group I invention, Claims 1-8 is acknowledged. Applicant traverses on three grounds: The search for the two groups is not burdensome to examiner; filing two separate applications is burdensome to applicant; and having two separate applications is burdensome to the public. Regarding the first grounds, the examiner respectfully disagrees. The two inventions are searchable in two entirely different classes. The additional search of the product would require a complete search in several subclasses in class 442, which search is not required for the process claims. Additionally, the examination of an application entails more than a mere search of the claims, as applicant is well aware. Regarding the second and third grounds of the traversal, neither the burden on applicant or on the public is a valid reason for traversal. Accordingly, the restriction is deemed proper and is made **FINAL**.

The elected claims 1-8 are being examined in this action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a process wherein filament yarn formed by three of four grooves is used, does not reasonably provide enablement for the use of a

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filament yarn formed by more than four grooves. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

The term "at least formed with three grooves" is broader than the enabling disclosure. The upper limit of the number of grooves is indefinite and inclusive of an infinite number of grooves. While applicant states on page 4 third paragraph that the invention is not to be limited by the types of cross section in the figures, applicant provides no indication of any filament used in the process of the invention which has more than four grooves. Accordingly, applicant only teaches how to make and use the invention using filaments having three or four grooves.

Claims 2 and 4 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. There is no teaching of forming a filament yarn wherein "the cross section of the selected filament yarn is arranged as distinctive shape at different section of the filament."

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "at least formed of three grooves" renders the claims vague and indefinite because there is no upper limit to the number of grooves.

On line 3 of claim 1 the term "row" seems to be a typographical error. The examiner assumes that "raw" is what is intended.

In (b) claim 1 what are the parameters of the high density fabric? How high is high density?

The term "hydrostatic pressure resistance higher than 700 mm H₂O" is incomplete. It needs to be further defined by the test method and a translated copy of said test method, which, according to the specification is a Japanese standard, needs to be inserted in the application.

Regarding claim 2, what is meant by "is arranged as distinctive shape at different sections of the filament?"

In claims 5 and 6, the term "includes filament and draw textured yarn" is indefinite. It is not clear how a filament yarn can be a filament yarn and something else. Does applicant mean that the filament yarn may additionally be combined with a draw textured yarn?

In claim 8, the term "30%" is incomplete. Does applicant mean 30% by weight of the yarns used to make the fabric? When applicant amends this claim, please point to the basis in the specification for said amendment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 102 (b) as anticipated or 103(a) as being unpatentable over Kato et al., US 4,519,804.

Kato et al disclose the formation of fabric from ultrafine polyester fibers which are formed into a dense fabric, are coated with a resin, dyed, pressed and scoured as claimed. The ultrafine fibers used have a filament size of not more than 0.5 denier, preferably 0.2 denier. See col 3 lines 56-59. According to col 5 last paragraph, in forming the fabric, the fine bundles of ultrafine fibers are super-entangled with one another, and the density of the fibers are high. This reads on applicant's step 1(b) "producing a high density fabric from the selected filament yarn." Example 1 teaches how to make the fabric, and it includes all of applicant's steps as claimed in claim 1:

(a) A ultrafine polyester filament is formed; Staple A is a multicomponent fiber which comprises a polyester as the sea component (PET copolymerized with 2.4 wt/% of isophthalic acid sodium sulfonate) . When the sea component is removed, the resultant fiber is the ultrafine polyester filament as claimed. (noting col 3 lines 56-59- the denier must be less than 0.5.) See col 11 lines 50-57.

(b) Staple A fibers and Staple B fibers is formed into a dense nonwoven fabric.

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(c) The fabric is coated with a polyurethane resin which is a water repellent; embossed (applicant's claimed) press finish; dyed (col 12 lines 23 et seq) and scoured (col 12 lines 36-40).

The fiber shapes are shown in the figures and include fibers which have three or more grooves as claimed. Regarding the limitation of claim 4, the fiber pictured in figure 2(n) has a Y shaped cross section. The above disclosure anticipates claims 1-4.

The claims are obvious over the reference because there is no teaching that the fabric produced has a hydrostatic pressure resistance as claimed. It is certainly waterproof since is it impregnated with a polyurethane resin. The subject matter would have been obvious to the skilled artisan at the time the invention was made that the fabric produced by the process of Kato et al. is the same as or equivalent to the claimed fabric because it is made by the very same process as claimed.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret Einsmann whose telephone number is 571-272-1314. The examiner can normally be reached on 7:00 AM -4:30 PM M-W and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

7/6/05


Margaret Einsmann
Primary Examiner
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